

Rule 2002 - 1

Notice to Creditors & Other Interested Parties

(a) Notice

- (1) Unless otherwise provided in the Bankruptcy Code, the Federal Rules of Bankruptcy Procedure, or these rules, whenever the Code or Rules authorizes any act, or authorizes the Court to enter an order, "after notice and hearing" or a similar phrase, the party giving the notice shall clearly state in the notice:
 - (A) The purpose of the notice;
 - (B) What a party receiving the notice must do in order to object to the action contemplated by the notice and the time within which an objecting party must act; and
 - (C) That the act may be performed or the Court may enter an order without an actual hearing or further notice unless a written objection is timely served and filed.
- (2) A notice may be included with a motion in which case the pleading shall be captioned as a motion and notice.

(b) Service of Notice

- (1) To Whom Given
 - (A) "Notice," as used in this rule shall mean notice to all creditors, equity security holders, indenture trustees, the debtor, the chairperson of any committee appointed in the case, the United States trustee, and any other parties in interest.
 - (B) Less inclusive notice may be given if not prohibited by the Code or Rules and specifically allowed by the Court or local rules. Notice is appropriate if it reaches all those with a potential good faith objection to the proposed order or action.

(2) By Whom Given

Any party seeking an order or other authority based on notice and hearing shall be responsible to give such notice as is required.

(3) How Given

All notices shall be by first-class mail, unless the recipient is a registered participant in the CM/ECF system in the case in which the pleading or other paper is being filed. If the recipient is a registered participant, the Notice of Electronic Filing (NEF) is deemed the equivalent of service of the pleading or other paper by first-class mail.

(4) Certification of Giving Notice

As soon as practicable, a party giving notice pursuant to this rule shall forthwith file as a separate document, an affidavit of mailing or unsworn declaration under penalty of perjury, to which shall be attached a list containing the names and addresses to whom notice was sent. If the notice was given to a Master Mailing List (MML) or Limited Mailing List (LML), the affidavit or declaration shall also state the date on which it was retrieved from the database of the court.

(c) Time Allowed for Objections

(1) The moving party shall provide at least twenty (20) days, plus three (3) additional days if required by FRBP 9006(f), for objections prior to presentation of an order or the taking of an action, unless a different time is prescribed.

(2) A motion for an order reducing the time for making objections to a proposed action may be made and granted after notice and hearing for cause shown. Notice of such a motion shall clearly state the reasons supporting the necessity for a reduction of time and that objections may be made to the requested reduction. The objections will be considered by the court at the time of hearing on the motion for the principal relief requested. A motion for an order as to the principal relief requested and for the reduction in time may be combined provided both motions are clearly captioned and the requests separated in the body of the combined pleading.

(d) Mailing Lists

- (1) The addressees of notices shall be in accordance with FRBP 2002(g). Notice required to be given to all creditors is presumed to be appropriate if provided to all entities on an MML or LML retrieved from the database of the court within five (5) days of the notice, and as required by FRBP 2002 and 9036.

(A) Master Mailing List (MML)

A Master Mailing List is maintained by the office of the Clerk for each pending case. This list is updated in accordance with FRBP 2002(g). The Master Mailing List is produced and maintained using the matrix provided by the debtor pursuant to LBR 1007-2, requests from governmental agencies, written requests by entities who wish to be added, deleted or have their address changed, and proofs of claim.

(B) Limited Mailing List (LML)

A Limited Mailing List is maintained by the office of the Clerk and is based on an order of the Court. A party desiring that a Limited Mailing List be established in a case shall do so by notice and hearing. The proposed order establishing a Limited Mailing List shall contain a list of each entity to be listed on the Limited Mailing List, with directions, if appropriate, as to classes or types of entities to be added. The order shall also state the scope and duration of the order. Once established, the Limited Mailing List will be maintained by the Clerk in the manner provided in subparagraph (A) above.

(C) Changes to Mailing Lists

Withdrawal by an attorney from a case is not sufficient for removal of such attorney's name from the Master Mailing List or the Limited Mailing List, however, a formal notice of appearance in a case by an attorney is sufficient to add such attorney to the Master Mailing List or the Limited Mailing List. A written request to receive all notices will be sufficient to add such requesting party to both the Master Mailing List and the Limited Mailing List.

(2) Notice in non-lead Consolidated or Joint Administration Cases

In order to be presumed appropriate, notice given to the MML or LML of a non-lead case that was consolidated or where joint administration was ordered shall include, in addition to the names contained on the MML or LML of the non-lead case, all

entities that filed a request for notice in the lead case after the cases were consolidated or joint administration ordered.

- (3) A party in interest who wishes to receive all notices, in addition to notices required to be sent to the MML or LML, shall give notice to the MML or LML as appropriate, and file a certificate of mailing as required by sub-section (b)(4) above.

(e) Signing of Orders Where No Objection is Pending

- (1) If no objection is made as provided in paragraph (f) of this Rule or if withdrawal of an objection is filed or the objecting party has endorsed the related order, an actual hearing is not required for any "notice and hearing" matter.
- (2) The submission of ex parte orders shall be as prescribed in LBR 9013-1.

(f) Objection

- (1) A party objecting to an act or the entry of an order contemplated by a notice shall file with the Clerk and serve on the moving party a written objection within the time set forth in the notice. The objection shall state briefly the grounds therefore.
- (2) If an objection states no grounds, the Court may strike the objection on ex parte motion of the moving party. The moving party, however, may make such ex parte motion to strike only after the objecting party fails within ten (10) days to respond to a request by the moving party for a brief statement of the grounds for the objection.
- (3) If an objection is filed, the moving party shall promptly request a hearing date from the Clerk.

(g) Closing Case Where no Action Taken after Notice or Objection

Issues raised by notice and hearing will be deemed moot for purposes of case closing thirty (30) days following the time to object to an act or entry of an order or from the filing of an objection unless:

- (1) An order has been presented ex parte if no objection has been filed;
- (2) A hearing has been requested if an objection has been filed; or
- (3) A motion and an affidavit or statement under penalty of perjury have been filed requesting that the case remain open.

Related Provisions

FRBP 2002	Notice to Creditors and the United States
FRBP 9006	Time
FRBP 9007	Authority to Regulate Notices
FRBP 9014	Contested Matters
FRCP 5(b)(2)(E) & (b)(3)	Serving and Filing Pleadings and Other Papers
LBR 9013-1	Motions and Orders
11 USC 102(1)	Construction of Notice and Hearing
11 USC 350	Closing Case

LBR 2002-1
APRIL 1, 2009

Rule 2003 - 1

Meeting of Creditors or Equity Security Holders

(a) Non- Convening of Meeting of Creditors or Equity Security Holders

Where the debtor has filed a plan as to which the debtor has solicited acceptances prior to the commencement of the case, a party in interest may request that the court order the United States trustee not to convene a meeting of creditors, or to cancel a meeting if one has been convened.

- (1) If the notice of the meeting of creditors has not been given pursuant to FRBP 2002(a)(1), the debtor may request that the meeting not be set on ten (10) days notice to the United States trustee and to the list of 20 largest creditors required by FRBP 1007 (d). If the request is granted, the notice to creditors of the commencement of the case will so provide.
- (2) If the notice of the meeting of creditors was given, then a party in interest may request that it be cancelled on twenty (20) days notice and hearing to the Master Mailing List.

Related Provisions

11 USC 341(e) Meetings of Creditors

LBR 2003 - 1
October 17, 2005

Rule 2004 - 1

Depositions and Examinations

(a) Motion

A motion by a party in interest for an order to examine any person shall include a certification that said party has coordinated the time and place of the examination with the person to be examined or specify why it is impossible to do so.

(b) Order

The proposed order shall be filed in accordance with LBR 9013-1(c).

(c) Location and Attendance

The person to be examined may be examined or compelled to produce tangible evidence at any time and place designated by order of the Court without the need for a subpoena.

(d) Before Whom Conducted

An examination may be conducted before any person authorized to administer oaths, except a bankruptcy judge. The time and place of the examination shall be coordinated with the person before whom the examination is to be conducted.

Related Provisions

FRBP 2004	Examination
FRBP 9012	Oaths and Affirmations
FRBP 9016	Subpoenas

Rule 2007.1 - 1

Trustees & Examiners (Chapter 11)

Abrogated.

Rule 2014-1

Employment & Professional Persons

(a) Application

An application for an order approving the employment of a professional by the trustee, debtor in possession, creditors' committee or a debtor exercising powers under 11 USC 1303, shall be in the prescribed local form and may be submitted ex parte without notice unless otherwise directed by the Court, except that

1. In Chapter 11 cases, the applicant if being employed as an attorney or an accountant shall give seven (7) days notice and hearing to the United States trustee pursuant to LBR 2002-1.
2. In Chapter 13 cases, the applicant, if being employed as an attorney by a debtor exercising powers under 11 USC 1303, shall give seven (7) days notice and hearing to the Chapter 13 trustee pursuant to LBR 2002-1.

(b) Rate of Compensation Fixed

If the applicant desires that the order also establish the actual rate of compensation then notice and hearing to the Master Mailing List pursuant to LBR 2002-1 is required.

Related Provisions

FRBP 2014	Employment of Professional Persons
LBR 9010-1	Attorneys - Notice of Appearance
11 USC 327	Employment of Professional Persons
11 USC 1103	Powers and Duties of Committees

LBR 2014-1
June 15, 2005

Rule 2015 - 1

Trustees - General

Abrogated.

Rule 2016 - 1

Compensation of Professionals

(a) Notice

Where an application exceeds One Thousand Dollars (\$1,000) notice of an Application For Award of Compensation for Services and Reimbursement of Expenses shall be on twenty days notice to the Master Mailing List in accordance with LBR 2002 - 1. The notice shall include the following information:

- (1) the status of the applicant;
- (2) the date the applicant's employment by trustee, debtor in possession or creditors' committee was approved;
- (3) whether the application is a final or interim application, and the sequential number of the application (i.e. 1st, 2nd etc.);
- (4) the amount of the compensation and reimbursement requested, stated separately;
- (5) the amount of compensation or reimbursement previously received or allowed, stated separately; and
- (6) the basis for the compensation and reimbursement.

(b) Application

(1) Applications for award of compensation for services or reimbursement of expenses pursuant to 11 USC 330 shall be as prescribed by the appropriate local form and shall include as attachments the following:

(A) Narrative

If the cumulative compensation applied for exceeds ten thousand (10,000) dollars, a narrative summary which describes the background of the case; the financial condition of the estate including comment as to profit and loss, amount of cash on hand or on deposit, amount of accrued unpaid administrative expenses and amount of unencumbered funds in the estate; the status of the case, and if the case is under Chapter 11, information concerning the status of the plan and disclosure statement, payment of quarterly fees to the United States trustee, and submission of monthly operating statements; a description of the tasks or projects for which compensation or reimbursement is sought; and

(B) Itemization of Services Rendered

- (i) except where the fee is on a fixed or percentage basis, itemization of each

service rendered in meaningful detail, including the identification of the person who rendered the service, the date the service was rendered and the project category of the service (i.e. cash collateral, relief from stay) in billing increments of one tenth of an hour, without combining or "lumping;" and

(ii) if the cumulative application for compensation exceeds ten thousand (10,000) dollars or if required by the Court, the presentation of the itemization shall be by project category, with administrative matters and fee application preparation as separate categories.

(C) Itemization of Expenses

An itemization of expenses in meaningful detail to include the date incurred, description of the expense, person incurring the expense with special emphasis on extraordinary or unusual items.

(2) A proposed ex parte order submitted to the Court pursuant to LBR 9013-1 allowing compensation and reimbursement of expenses shall be as prescribed by the appropriate local form and shall be supported by a statement of the reviewing trustee that the application was reviewed and the amounts to which the reviewing trustee raises no objection.

(3) The applicant shall serve a copy of the application and attachments with the notice on the United States trustee, the trustee or debtor in possession, debtor and any creditors' committee appointed pursuant to 11 USC 1102.

(c) Award and Payment

Payments for compensation or reimbursement from the estate as an administrative expense pursuant to 11 USC 330 shall be made only after award and order of the Court.

(d) Exception in Chapter 13 Case

In a Chapter 13 case, an attorney may choose to be compensated on either an hourly basis or on an agreed flat fee basis. If the attorney chooses to be compensated on an hourly basis, compliance with sub-paragraph (a),(b) and (c) of this rule is required. An attorney who chooses to be compensated on an agreed flat fee basis need only comply with subparagraph (e) of this rule.

(e) Agreed Flat Fee

(1) The Agreed Flat Fee shall be supported by a Flat Fee Agreement as prescribed by the appropriate local form, between the debtor and the attorney, may not exceed \$2,500 in a consumer case or \$3,500 in a business case as defined in 11 USC 1304(a), and shall be compensation for all services and associated expenses excluding filing fees and credit counseling/education program fees in connection with the case through confirmation of the plan or thirty (30) days following the

expiration of the claims bar date, whichever is later, that are ordinary, necessary and reasonably foreseeable and which includes the following:

- (A) preparation and filing of the petition, Schedules, and Statement of Affairs, the Chapter 13 Plan and associated local forms, along with modifications, amendments and supplements, Current Monthly Income and Calculation of Commitment Period and Disposable Income (means test Form B22C (Chapter 13)), filing certification of pre-filing counseling, filing evidence of income from employment as required by statute, and filing certification of pre-discharge education; and preparing and filing prior to confirmation certification that the debtor is current in all post-petition domestic support obligations, and has filed all applicable and required federal, state and local tax returns, and, prior to discharge. certification regarding domestic support obligations as provided for in 11 USC 1328(a);
- (B) representation at the Meeting of Creditors or Examinations held pursuant to FRBP 2004; filing motion and statement in support of confirmation; and appearance at initial confirmation hearings, if required ;
- (C) responding and resolving common and foreseeable issues and objections, including but not limited to objections to confirmation; motions for relief from the automatic stay; assumption or rejection of unexpired leases or executory contracts; valuation of collateral; pre-confirmation adequate protection payments; objection to proofs of claim; tax refunds and bonuses, license reinstatement, and post petition repossessions and garnishments, requests from the office of the United States trustee, and routine motions to dismiss;
- (D) in business cases, assisting the debtor in the preparation and filing of required financial reports;
- (E) filing with the court copies of the debtors pay stubs for the sixty (60) day period immediately prior to the filing of the petition, and providing to the trustee tax returns or other records if requested by the trustee; and
- (F) if requested, filing with the court or making available to the requesting party as provided for in LBR 4002-1 federal income returns or amendments required under applicable law for each tax year while the case is pending pursuant to 11 USC 521(f).

(2) Flat Fee Agreement

The attorney for the debtor shall submit a copy of the Flat Fee agreement entered into with the debtor to the Chapter 13 trustee prior to the meeting of creditors, as well

as a completed copy of the Statement of Money or Property Received or Promised in Connection With This Case Other Than by Application or a Plan (LF 2016A). The Flat Fee agreement shall be as prescribed by the appropriate local form.

(3) Approval of Agreed Flat Fee

Approval of the Agreed Flat Fee shall be included in the order confirming plan, and will be sufficient authority for the attorney to transfer any monies of the debtor held in the attorney's trust account to the attorney and for the trustee to pay any remaining amount to the attorney as directed by the plan.

(4) Supplemental Application

(A) The attorney may submit a supplemental application for compensation for services not included in the agreed flat fee as set out in sub-paragraph (e)(2) of this rule, whether or not the services were performed before or after confirmation. In the case of a supplemental application the attorney shall comply with sub-paragraph (a), (b), and (c) of this rule as to such additional services. Any such supplemental application shall include a certification by the attorney that the compensation applied for was not reasonable foreseeable with an explanation as to why it was not foreseeable and is outside that contemplated by the agreed flat fee as set out in sub-paragraph (c)(2) of this rule.

(B) Supplemental fee applications must be filed with the court prior to completion of the plan.

(f) Hold Back of Estimated or Applied for Attorney Fees as Projected Costs of Administration

Following confirmation, the trustee is authorized to hold back estimated attorney fees or attorney fees for which an application has been filed as projected costs of administration in the same manner as if they had been allowed, but may pay them out only as allowed by a separate order of the court.

Related Provisions

FRBP 2014	Employment of Professional Persons
FRBP 2016	Compensation for Services
11 USC 326	Limitation on Trustee's Compensation
11 USC 327	Employment of Professional Persons
11 USC 328	Limitation on Compensation
11 USC 329	Debtor's Transactions with Attorneys
11 USC 330	Compensation of Officers
11 USC 331	Interim Compensation
11 USC 503	Allowance of Administrative Expenses
11 USC 504	Compensation for Services

Rule 2071 - 1

Committees

In a case in which the debtor is a small business debtor, a request that a creditors' committee not be appointed shall be on notice and hearing to the United States trustee and the creditors on the list filed pursuant to FRBP 1007(d) in accordance with FRBP 2002.

Related Provisions

FRBP 1007(d)	List of 20 Largest Creditors
FRBP 2002	Notice and Hearing

LBR 3016 -1(b)	Chapter 11 Cases
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11 USC 1102	Creditors' Committees
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LBR 2071 -1
JUNE 1, 2007

Rule 2072 - 1

Notice to Other Courts

A debtor who is a party to an action in any other court shall, as soon as possible following the filing of a petition for relief, give notice to the court, any judge to whom the case is assigned and all other parties. The notice shall identify the court, case caption, docket number and date such petition was filed.

Related Provisions

RCW 6.01.050

Writ of Attachment or Execution Against
Debtor in Bankruptcy

LBR 2072 - 1
September 1, 1998

Rule 2082 - 1

Chapter 12 - General

(a) Applicability

This rule applies only to cases under Chapter 12 of the Bankruptcy Code.

(b) Tax Returns

The debtor shall provide to the trustee, and any creditor who requests, at least 7 days before the meeting of creditors, a copy of federal income tax returns filed for the three (3) years prior to the year in which the petition is filed together with all schedules thereto.

(c) Debtor Eligibility Challenges

Challenges to the eligibility of the debtor should be initiated at the earliest possible time in the case. Such challenges may be made by fifteen (15) days notice and hearing to the Master Mailing List pursuant to LBR 2002 - 1.

(d) Funds of the Estate

- (1) The debtor shall open a new bank account immediately upon filing a case under Chapter 12. The bank account shall be in the name of the debtor as "CHAPTER 12 DEBTOR". The account shall be separate from any account used by the debtor prior to filing of the Chapter 12 case. All amounts from the debtor's previous bank accounts shall be transferred to the new account. All receipts, including cash, after filing the case shall be deposited into the new account. The debtor shall file with the Clerk, the Chapter 12 trustee, and the United States trustee information as to the identity and location of the debtor's bank and the new account number.
- (2) All bills shall be paid by check written to a named payee. Checks written to the debtor may only be for the payment of incidental family or household expenses.

(e) Compensation of Attorney for Debtor

- (1) Requests for Compensation to be paid from the estate shall be made pursuant to FRBP 2016(a) and LBR 2016.
- (2) A copy of the Attorney Statement of Compensation, and any amendments thereto, required to be filed by 11 USC 329 and FRBP 2016(b), shall be promptly served on the United States trustee and the Chapter 12 trustee.

(f) Monthly Operating Statement

- (1) The debtor shall file and serve upon the Chapter 12 trustee a monthly statement of the estate's cash receipts and disbursements. The first monthly statement shall be filed within fifteen (15) days of the close of the month during which the case was filed. A monthly statement shall be filed within fifteen (15) days of the close of each month thereafter until the plan is completed or the case is converted or dismissed. A copy of the bank statement for the corresponding month shall be attached to the monthly statement.
- (2) The monthly statement shall itemize each receipt according to the type and quantity of product sold. Disbursements relating to farming operations shall be similarly itemized. Disbursements for household and family living expenses shall not be itemized, but shall be shown as a single, lump sum amount. Disbursements made to an attorney shall be separately stated and itemized.
- (3) The monthly statement shall include a certification that all taxes due since the filing of the case have been paid or deposited. The amount paid or deposited during the month, the date of payment or deposit, and the taxing agency paid or the place the tax was deposited shall be indicated in the monthly statement.
- (4) The debtor shall keep a copy of all receipts, bills and invoices for all purchases or payments on behalf of the farming operation.
- (5) The Chapter 12 trustee or any party in interest may present, upon five (5) days notice and hearing, an order to dismiss if the debtor becomes delinquent in filing any monthly statement.

(g) Valuation of Security, Determination of Extent of Lien, and Lien Avoidance

- (1) Valuation of claims secured by a lien on property in which the estate has an interest shall be by a separate motion pursuant to LBR 3012 - 1. The order valuing the claim voids the lien to the extent of the unsecured portion of the claim pursuant to 11 USC 506(d). In the event of dismissal of the case prior to discharge, this voided lien will be reinstated pursuant to 11 USC 349(b)(1)(C) unless otherwise ordered.
- (2) All actions to determine the validity, priority or, other than (1) above, the extent of a lien, shall be made by adversary proceeding, however, such relief may also be sought in an objection to allowance of claim pursuant to LBR 3007 - 1.
- (3) Actions to avoid judicial or non-possessory non-purchase money security interests under 11 USC 522(f) shall be by separate motion pursuant to LBR 4003 - 2.

(h) Motion For Valuation Hearing

- (1) If the debtor intends to treat any secured creditor as other than fully secured, the debtor shall file a motion to value the property claimed as security for the claim. This motion and notice thereof shall be filed no later than thirty (30) days from the date of filing the petition initiating the Chapter 12 case, or upon the filing of the plan, whichever is sooner. Service on the Master Mailing List shall be initiated at the same time the motion is filed.
- (2) Written objections for this motion shall be filed and served on the debtor within fifteen (15) days from the date of filing the notice. The objection shall state the specific grounds upon which it is based. Hearing on these objections will be held at the valuation hearing. An entity which fails to object to the motion to value may not participate at the valuation hearing.
- (3) The debtor, any objecting party, or the trustee may request that a status conference be conducted in the case at any time after the expiration of the time for objection to the motion to value. The status conference will be conducted by telephone upon five (5) days notice to the debtor, all parties who have filed objections, and the Chapter 12 trustee.
- (4) The valuation hearing shall be scheduled ninety (90) to one hundred five (105) days from the filing of the petition initiating the case. Notice of this hearing shall be included with the notice of the meeting of creditors.
- (5) At least ten (10) days prior to the valuation hearing all parties participating in the hearing shall exchange and deliver to the appropriate chambers a list of witnesses expected to testify at the hearing, a summary of the expected testimony, copies of the appraisals to be introduced at the hearing, and a list identifying the comparable sales information to be relied upon in supporting the valuation. Each appraisal submitted shall identify the date of the appraisal and the name and credentials of the appraiser. Failure to comply with this rule may result in the imposition of sanctions.
- (6) The Court may limit, on its own motion or at the request of a party, introduction of evidence on direct examination by affidavit only, provided, however, that said affiant be present at the time of hearing and available for cross examination.
- (7) The moving party shall immediately notify the Court of the settlement of any valuation disputes prior to the valuation hearing and shall place into the record at that hearing the details of any such settlement.

(i) The Plan

(1) Filing

- (A) A plan shall be filed within ninety (90) days of the filing of the petition initiating the case. An extension of time to file the plan may be allowed if an application is made prior to the expiration of the ninety (90) days from the filing of the petition. The application shall be supported by an affidavit or unsworn declaration under penalty of perjury which clearly sets forth the basis for the extension and establishes good cause for the request. The application may be made ex parte. A copy of the order of extension shall be served upon the Master Mailing List as soon as practicable by the debtor.
- (B) Simultaneous with the filing of the plan the debtor shall serve upon the Master Mailing List a copy of the plan, notice of the time to file objections, and notice of the hearing on confirmation.

(2) Objections

Objection to the confirmation of the plan shall be made within fifteen (15) days of the mailing of the notice of the filing of the plan, shall include the specific basis for the objection of the plan, and shall be filed with the Court and served on the debtor, the debtor's attorney, and the Chapter 12 trustee. A party who has made an objection and who fails to appear at the hearing on confirmation or at any other hearing scheduled on the objection may be deemed to have waived such objection.

(3) Plans Filed Within Sixty (60) Days - Status Conference

If a plan is filed within sixty (60) days of the filing of the petition initiating the case, the Court will conduct a status conference as soon as practical after the expiration of the time for objections to the plan. The status conference will be conducted by telephone conference upon five (5) days notice to the debtor, all parties who have filed objections and the Chapter 12 trustee. Among the matters to be discussed at this status conference will be possible revision of the hearing schedule in the case in light of the early filing of the plan.

(4) Contents of the Plan

The plan shall meet the requirements of 11 U.S.C. 1222 and shall also contain the following information:

- (A) a schedule showing the dates, amounts, and payees of all payments to be made by the debtor and the payments to be made through the office of the Chapter 12 trustee;

- (B) a cash flow budget for the current crop year and for all future crop years for the life of the plan. The cash flow budget shall describe the crops intended to be grown, the farm products intended to be produced, and the projected gross income expected to be received for each crop or product. Assumptions upon which the cash flow projections are based with historical or other data justifying such assumptions shall be included. Operating expenses and loan payments shall be detailed in the budget. Living expenses of the debtor and the debtor's family shall be listed as a lump sum and shall not be described in greater detail;
- (C) projected administrative expenses, including attorney fees;
- (D) the probable tax consequences to the debtor resulting from the plan;
- (E) a statement, with detailed information, specifying the need, if any, for the plan payments to be made over a period longer than three (3) years; and
- (F) a liquidation analysis.

(j) Trustee's Confirmation Summary

The Chapter 12 trustee shall file a confirmation summary no less than seven (7) days prior to the date set for the confirmation hearing. At the same time a copy shall be served on the debtor, the debtor's attorney, and any party objecting to the plan. The confirmation summary shall make a recommendation as to confirmation and shall comment on each of the following:

- (1) the debtor's eligibility for relief under Chapter 12;
- (2) the liquidation statement, the cash flow budget, and proposed order confirming the plan;
- (3) objections to the confirmation of the plan;
- (4) the status of any valuation disputes;
- (5) the feasibility of the plan;
- (6) the validity of the secured claims; and
- (7) the appropriateness of attorney fees disclosed by the Attorney Statement of Compensation and of the total attorney fees estimated to be paid either as a cost of administration or directly by the debtor.

(k) Hearing on Confirmation

- (1) The confirmation hearing shall be scheduled one hundred twenty (120) to one hundred thirty-five (135) days from the filing of the petition. Notice thereof shall be given with the notice of the meeting of creditors and at the time the plan is filed.
- (2) Objections to confirmation shall be heard at the confirmation hearing. The Court will require production of evidence supporting confirmation of the plan even if no objections are before the Court. This evidence will include, but is not limited to, proof of eligibility for relief under Chapter 12, a liquidation analysis supporting the assertion that the unsecured claims will not receive less than they would receive in a Chapter 7 liquidation, and projections of future operations supporting the contention that the plan is feasible. If no objection is before the Court, the Court may determine, without receiving additional evidence, that the plan has been proposed in good faith and not by any means forbidden by law. If no objection is before the Court and the debtor requests, evidence supporting confirmation of a plan may be submitted by affidavit and the confirmation hearing conducted by telephone conference; provided, however, in such a case that the debtor must participate in such phone conference and be available under oath to answer such questions as the Court may have relating to confirmation.

(l) Preconfirmation Modification of the Plan

If, in connection with the confirmation hearing, parties modify the plan as an accommodation or settlement, the Court may conditionally approve the modified plan, adjourn the hearing on confirmation, and order notice of the modification pursuant to 11 U.S.C. 1229(b) reserving the signing of the order of confirmation until the time for objections to modification has passed without objection.

(m) Postconfirmation Modification of the Plan

- (1) A party requesting modification of the plan after confirmation shall give thirty (30) days notice and an opportunity to be heard to the debtor, all creditors, the Chapter 12 trustee, and all other parties on the Master Mailing List.
- (2) Once the plan has been modified as above, without objection, the proponent of the modification shall forthwith serve on the Chapter 12 trustee a copy of the modification together with a certificate stating that:
 - (A) the modification has been filed with the Clerk;
 - (B) notice has been given in accordance with this rule; and

- (C) no objections have been filed or served. If the plan is modified after objection and Court hearing, the proponent of the modification shall serve a copy of the modification and order approving the modification on the Chapter 12 trustee.
- (3) If a modified plan provides for the payment of claims not listed on the original schedules, notice of the modification shall be given to the additional creditors.
- (4) The Chapter 12 trustee may pay postpetition claims only if the plan is modified as above and the postpetition creditor affirmatively agrees in writing to payment under the plan.

(n) Dismissal of Case by Debtor

Absent an order to the contrary, a debtor desiring to dismiss the case shall give notice to the Master Mailing List in accordance with LBR 2002 - 1.

Related Provisions

FRBP 1017(D)	Procedure for Conversion or Dismissal
FRBP 2002	Notices
FRBP 2015	Duty to Make Reports
FRBP 2016	Compensation of Attorney
FRBP 3012	Valuation of Security
FRBP 3015	Filing of Plan
FRBP 3019	Modification of Plan
FRBP 3020	Confirmation of Plan
FRBP 9013	Motions; Form and Service
11 USC 329	Debtor's Transactions with Attorneys
11 USC 349	Effect of Dismissal
11 USC 704(8)	Duties of Trustee
11 USC 1106(a)	Duties of Trustee
11 USC 1203	Rights and Powers of Debtor
11 USC 1204	Removal of Debtor as Debtor in Possession
11 USC 1221	Filing of Plan
11 USC 1222	Contents of Plan
11 USC 1223	Modification of Plan Before Confirmation
11 USC 1224	Confirmation Hearing
11 USC 1225	Confirmation of Plan
11 USC 1229	Modification of Plan After Confirmation

Rule 2083 - 1

Chapter 13 - General

(a) Applicability

This rule shall apply only to cases under Chapter 13 of the Bankruptcy Code.

(b) Filing The Plan and Other Documents

The debtor shall file the following documents as prescribed by the appropriate local form:

- 1) Chapter 13 Plan
- 2) Plan Payment Declaration
- 3) Plan Funding Analysis
- 4) Liquidation Analysis

(c) Mailing of Plan to Parties in Interest

A copy of the plan required to be provided to all creditors pursuant to FRBP 3015(d) shall be as directed by the Clerk of Court. Notice of modifications and copies required to be sent to all creditors shall be provided by the party making the modification in accordance with sub-section (k) of this rule.

(d) Valuation of Security, Determination of Extent of Lien, and Lien Avoidance

- (1) Valuation of claims secured by a lien on property in which the estate has an interest shall be by a separate motion pursuant to LBR 3012 - 1. The order valuing the claim voids the lien to the extent of the unsecured portion of the claim pursuant to 11 USC 506(d). In the event of dismissal of the case prior to discharge, this voided lien will be reinstated pursuant to 11 USC 349(b)(1)(C) unless otherwise ordered.
- (2) All actions to determine the validity, priority or, other than (1) above, the extent of a lien, shall be made by Adversary Proceeding, however, such relief may also be sought in an objection to allowance of claim pursuant to LBR 3007 - 1.
- (3) Actions to avoid judicial or non-possessory non-purchase money security interests under 11 USC 522(f) shall be by a separate motion pursuant to LBR 4003 - 2.

(e) Delinquent Tax Returns

A statement as to whether or not the debtor is delinquent in the filing of any tax return shall be included in the plan as well as a statement as to when any delinquencies in filing will be cured.

(f) Treatment of Secured Creditors Secured by Real Property Whose Rights are Modified by the Plan and Arrearages

- (1) If the plan proposes to modify the rights of a creditor secured by real property or, if at the time of the filing a petition for relief, a delinquency exists on any payments for such debt, then all payments, both current and delinquent, for such debt shall be paid through the office of the Chapter 13 trustee.
- (2) If during the pendency of the plan a debt secured by real property falls into arrearage, then the plan may be modified pursuant to subsection (l) of this rule to require payments, both current and delinquent, to be paid through the office of the Chapter 13 trustee.
- (3) If during the pendency of the plan arrearages are brought current, then the plan may be modified to allow for payments to be made directly to the creditor by the debtor.

(g) Funding of Plan by Sales

- (1) If the debtor proposes to partially fund the plan through the sale of property of the estate, then the debtor must also file a marketing plan with the plan. The marketing plan shall include:
 - (A) a description of the property to be sold;
 - (B) identification of all lien holders and the amount of each lien;
 - (C) if a broker is to be employed, the name of the broker and when the property was or will be listed;
 - (D) the terms of the broker's agreement;
 - (E) the price sought for the property;
 - (F) the method used in arriving at the value of the property; and
 - (G) the time frame, including mileposts where appropriate, during which the property will be marketed.
- (2) The debtor shall provide quarterly status reports to the Chapter 13 trustee.

(h) Challenges to Eligibility of Debtor

Challenges to the eligibility of the debtor should be initiated at the earliest possible time in the case. Such challenges may be made by fifteen (15) days notice and hearing to the Master Mailing List pursuant to LBR 2002 - 1.

(i) Objections to Confirmation

In order to be timely, objections to confirmation of a plan shall be filed and served on the Chapter 13 trustee and the debtor and debtor's attorney no later than five (5) days following the conclusion of the meeting of creditors or twenty-five (25) days following mailing of the original plan pursuant to subparagraph (c) above, whichever is later.

(j) Confirmation

- (1) The debtor shall file a motion for an order confirming the plan and a separate unsworn statement under penalty of perjury in support of the motion. The statement shall state that the requirements of 11 USC 1325(a)(2),(6),(7),(8) and (9) have been satisfied, and both shall be as prescribed by the appropriate local form. The Motion and Statement shall be filed no sooner than the expiration of the time to file objections to confirmation and no later than seven (7) days prior to the hearing.
- (2) The trustee shall file as soon as practicable an unsworn statement under penalty of perjury stating whether or not the plan is feasible and satisfies the requirements of 11 USC 1325(a)(1),(4) and (5).
- (3) If the debtor has filed a request for an order confirming the plan and submitted a proposed order in accordance with LBR 9013-1, and if the requirements of subsections (1) and (2) are satisfied, the debtor, debtor's attorney and trustee need not participate in the hearing unless specifically required by the court.

(k) Modification of Plans

(1) Modification Prior to Confirmation

Modifications made pursuant to 11 USC 1323 shall be on twenty (20) days notice and hearing in accordance with LBR 2002 - 1. A plan shall not be confirmed until the time to object to any such modification has expired and all objections resolved.

(2) Modification After Confirmation

- (A) A modification proposed by any entity other than the debtor shall be on twenty (20) days notice and hearing to any adversely affected party, the Chapter 13 trustee, debtor and debtor's attorney. The modification shall become effective upon the expiration of the time to file objections, if there are no objections, or upon resolution of all objections made.
- (B) A modification proposed by the debtor shall be on twenty (20) days notice and hearing to the Chapter 13 trustee and any adversely affected party, and

if the modification provides for payment of a postpetition debt, the holder of such debt. The modification shall become conditionally effective upon the filing and service of the notice. The modification shall become permanent upon the expiration of the time to file objections if no objections are timely made or upon resolution of all objections made.

(3) Effect of Disallowance of Modifications

If a proposed modification is disallowed, the plan in effect immediately prior to such modification shall be the plan, and debtor shall be responsible for curing any default occurring during the period of conditional modification.

(4) Modification by Stipulation Between Chapter 13 Trustee and Debtor

The Chapter 13 trustee and the debtor may stipulate to a modification before or after confirmation where no parties are adversely affected. Such modifications shall be effective upon the filing of the stipulation.

(5) Certificate of Modification

The proponent of a modification pursuant to (1) or (2) above shall serve on the Chapter 13 trustee, promptly after the time to file objections has expired, a copy of the modification and a certificate indicating the date the modification was filed, that notice and hearing were properly given and that no objections were received or filed.

(6) The debtor shall file an amended Plan Funding Analysis (LF 2083B) upon the making or proposing of a modification pursuant to subparagraph (k)(1) or (2) of this rule.

(l) Payments To and Distributions By Chapter 13 Trustee

(1) Payments to Chapter 13 Trustee

The debtor shall make all pre and post confirmation payments on obligations for leases of personal property and obligations owed to a creditor that has a security interest in personal property to the Chapter 13 trustee including all obligations provided by 11 USC 1326(a)(1), as well as obligations secured by real property as required by sub-paragraph (f) of the rule, unless otherwise ordered by the court.

(2) Filing Fee Installments

Installment payments of filing fees where allowed shall be paid directly to the Clerk, however, if such fees are received by the Chapter 13 trustee, the Chapter 13 trustee

may return them to the payor or deliver them to the Clerk without further order of the Court.

(3) Distributions by Chapter 13 Trustee Based on Modifications

(A) The proponent of a modification shall be responsible to serve notice on the Chapter 13 trustee in writing when a modification becomes effective, either conditionally or permanently, and until so notified the Chapter 13 trustee may make distributions without regard to such modification.

(B) Distributions may be made by the Chapter 13 trustee in accordance with a conditional modification until such modification becomes permanent, is disallowed or otherwise ordered, and the Chapter 13 trustee is served with a copy of such order by the objecting party.

(4) Postpetition Claims

Proofs of claim filed pursuant to 11 USC 1305(a)(1) for postpetition tax claims may be paid without a modification to the plan, however, proofs of claim filed pursuant to 11 USC 1305(a)(2) for consumer debt may only be paid if a modification to the plan so provides.

(5) Disposition of Funds on Conversion or Dismissal

(A) On the conversion or dismissal of a case, the Chapter 13 trustee shall, as soon as practicable, disburse any remaining funds in accordance with 11 USC 1326. If a motion is filed pursuant to 11 USC 348(f)(2) and the trustee is served a copy thereof prior to disbursement, then the Chapter 13 trustee shall not further disburse until resolution of the motion.

(B) If a case is dismissed or converted prior to confirmation, then the Chapter 13 trustee shall be entitled to deduct and retain as reimbursement for set up and maintenance costs an amount as established by the Court.

(6) Pre Confirmation Distributions

The Chapter 13 trustee is authorized to make distributions prior to the confirmation of the plan on obligations for leases of personal property, and on obligations secured by personal or real property. Such pre confirmation distributions shall be made in the sequence and in the amount set forth in the debtor's plan. If the Trustee has insufficient funds on hand to make the distributions to all classes, the funds will be distributed as provided in the plan to the extent the funds are available. Claims within a particular class which cannot be paid the proposed distribution shall be paid

a pro rata share of the funds available. On each such distribution, the Chapter 13 trustee will be entitled to an administrative fee equivalent to that authorized by 11 USC 1326(b). Upon confirmation of the plan, payments will be made as set forth in the plan.

(m) Postconfirmation Sale of Property by Debtor

If the debtor proposes to sell property pursuant to 11 USC 363, then, unless the property is fully exempt or is valued in an amount of seven thousand, five hundred (7500) dollars or less, the debtor shall promptly provide to the Chapter 13 trustee an amended statement of income and expenses as prescribed by the appropriate official form projecting any changes occasioned by the sale and a good faith estimate of closing costs or other similar document and any other documents requested by the Chapter 13 trustee relating to such sale.

(n) Incurring Credit by Debtor During the Pendency of the Plan

If the debtor proposes to purchase any property involving a credit transaction that may potentially affect the debtor's ability to satisfy the plan, the debtor, in addition to obtaining the Chapter 13 trustee's approval if practicable, shall transmit to the Chapter 13 trustee an amended statement of income and expense as prescribed by the appropriate official form projecting any changes caused by the purchase, and if the transaction involves real estate, a good faith estimate of closing costs or other similar document and any other documents requested by the Chapter 13 trustee.

(o) Debtors Engaged in Business

Debtors engaged in business shall comply with the applicable provisions of LBR 3016 - 1(e) and 28 USC 959(b), and serve a copy of the Monthly Financial Report on the trustee.

(p) Income Directive

- (1) The Chapter 13 trustee may, at any time, issue a Trustee's Income Directive or present an ex-parte order, based upon a proposed or confirmed plan requiring any entity from whom the debtor receives money to pay all or part of such income to the Chapter 13 trustee.
- (2) In any case in which a debtor desires to make plan payments directly to the trustee in lieu of an income directive, the debtor may do so only upon the entry of an order of the court authorizing such direct payments. Such an order will be entered only:
 - (A) after filing of a motion for an order authorizing the debtor to make the plan payments directly to the trustee; and
 - (B) after ten (10) days notice and hearing to the trustee; and

(C) upon a showing of cause.

(q) Motion to Dismiss or Convert Case

- (1) A party in interest desiring that a case be dismissed or converted shall give twenty (20) days notice and hearing to the Master Mailing List.
- (2) The Chapter 13 trustee may move the Court for an order of dismissal or conversion on five (5) days notice to the debtor and debtor's attorney and any entity that has filed and served the Chapter 13 trustee with a request to receive such notice for failure to timely file schedules or other required documents or attend the meeting of creditors and on twenty (20) days notice for failure to timely make payments required by 11 USC 1326(a) or pursuant to a confirmed plan.
- (3) A debtor shall serve a copy of a request for voluntary dismissal on the trustee.

r) Minimum Plan Payments

A plan that proposes payments of less than fifty (50) dollars per month to be paid to the Chapter 13 trustee shall be supported by an affidavit or unsworn declaration under penalty of perjury explaining the necessity of such minimum payments.

(s) Orders to be Served on Chapter 13 Trustee

A conformed copy of all orders in a Chapter 13 case shall be served on the Chapter 13 trustee by the party obtaining such order. If the order directs the Chapter 13 trustee to act or refrain from acting, the order shall not be effective as to the Chapter 13 trustee until such service has been accomplished.

(t) Domestic Support Obligation Certificate

Upon completion of all payments by the debtor under the plan, each debtor shall file a Domestic Support Obligation Certificate as prescribed by the appropriate local form.

Related Provisions

FRBP 1006	Filing Fees
FRBP 1007	Schedules
FRBP 1017	Dismissal or Conversion of Case
FRBP 1019	Conversion
FRBP 2002	Notice and Hearing
FRBP 2016	Compensation of Attorneys
FRBP 3007	Objection to Claims
FRBP 3012	Valuation of Security
FRBP 3015	Filing of Plan
FRBP 6004	Sale of Estate Property
FRBP 9013	Motions
FRBP 9014	Contested Matters
LBR 2016 - 1	Application of Administrative Expenses
LBR 9011 - 1	Attorney Transactions With Debtors
LBR 3016 - 1	Chapter 11 Cases
LBR 4001 - 2	Cash Collateral
LBR 4003 - 2	Lien Avoidance
11 USC 348	Conversion
11 USC 349	Effect of Dismissal
11 USC 506	Determination of Secured Status
11 USC 522(f)	Avoidance of Liens
11 USC 1304	Debtor Engaged in Business
11 USC 1304	Postpetition Claims
11 USC 1307	Conversion or Dismissal
11 USC 1323	Modification Before Confirmation
11 USC 1325(c)	Income Directive
11 USC 1326	Payments
11 USC 1329	Modification After Confirmation
28 USC 959	Duties of Managers of Estate Property